

THE HONORABLE JOHN C. COUGHENOUR

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

UNITED STATES,

Plaintiff,

vs.

KENNETH WARREN RHULE and  
KENNETH JOHN RHULE,

Defendants.

Case No. 2:20-cr-00105-JCC

STIPULATED MOTION TO  
CONTINUE TRIAL AND PRETRIAL  
MOTIONS DATES

**NOTE ON MOTION CALENDAR:  
August 12, 2021**

Defendant Kenneth Warren Rhule, by his attorneys Angelo Calfo and Henry Phillips, defendant Kenneth John Rhule, by his attorney Peter Offenbecher, and the United States of America, by Assistant United States Attorney Marie Dalton, jointly move to continue the currently scheduled trial date (November 1, 2021) and to vacate the current deadline for filing pretrial motions (September 3, 2021). The undersigned parties respectfully request that the Court continue the trial to a date convenient for the Court's schedule on or after March 7, 2022, or sometime thereafter, and set a corresponding pretrial motions deadline on or after February 4, 2022.

STIPULATED MOTION TO CONTINUE TRIAL  
AND PRETRIAL MOTIONS DATES  
(Case No. 2:20-cr-00105-JCC) - 1

LAW OFFICES  
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1 This motion is made for the following reasons:

2 1. Both Kenneth Warren Rhule and Kenneth John Rhule were charged by Indictment  
3 on August 5, 2020, with conspiracy to manufacture and distribute marijuana and products in  
4 violation of 18 U.S.C. §§ 841(a)(1), 841(b)(1)(A), and 846. Dkt. No. 31. Kenneth Warren Rhule  
5 was also charged with conducting an unlicensed money transmitting business in violation of 18  
6 U.S.C. § 1960, money laundering in violation of 18 U.S.C. §§ 1956 and 2, and possessing a firearm  
7 during and in relation to a drug trafficking crime in violation of 18 U.S.C. § 924(c)(1)(1). *Id.*

8 2. The charges the defendants face are serious, and potentially expose them to 10-year  
9 mandatory minimum prison sentences, if convicted.

10 3. At Kenneth John Rhule's initial appearance on July 24, 2020, Magistrate Judge  
11 Tsuchida ordered his detention. Dkt. No. 34. At the Defendants' arraignment on August 20, 2020,  
12 the Court set the trial for October 5, 2020, and the pretrial motions deadline for September 10, 2020.  
13 Dkt. Nos. 46–47. The trial date and pretrial motions deadline have since been continued upon  
14 stipulated or joint motions of the parties. Dkt. Nos. 68, 84, 97.

15 4. The Court established the current trial date and pretrial motions deadline in an Order  
16 entered on March 15, 2021. Dkt. No. 101.

17 5. Kenneth John Rhule remains incarcerated at FDC Seatac. He most recently filed a  
18 second motion to reopen the detention hearing on May 13, 2021, Dkt. No. 102, which the Court  
19 denied on May 20. Dkt. 104.

20 6. Counsel for both defendants and the government have since conferred about the  
21 current trial date and pretrial deadlines and the status of discovery, as well as the ongoing impact  
22 of the COVID-19 pandemic upon trial preparation, the Court's operations, and the parties' trial  
23

1 schedules in other matters. *See, e.g.*, General Orders 08-20, 11-20, 13-20, 15-20, 18-20, and 10-  
2 21.

3 7. Defense counsel believe that additional time is needed to adequately prepare for trial  
4 and to determine whether a resolution short of trial can be reached for the defendants in this matter,  
5 and request a continuance of the trial date in order to avoid an otherwise likely miscarriage of  
6 justice. 18 U.S.C. § 3161(h)(7)(B)(i).

7 8. The government has been investigating the case for over three years. Defense  
8 counsel have been working diligently to review the provided discovery, which now consists of at  
9 least 1.8 TB of data containing over 350,000 pages of material, and native files containing numerous  
10 spreadsheets and video recordings. The government has most recently disclosed additional lab  
11 reports on July 13, 2021 and has indicated that more discovery will be produced which will require  
12 defense counsel to supply the government with a 1 TB hard drive. Upon receipt and review of such  
13 information, the defense will be coordinating with the government to review the evidence seized,  
14 likely in consultation with defense expert(s). The defense needs additional time to adequately  
15 assess and investigate the information disclosed, and may need to meet and confer with the  
16 government thereafter regarding outstanding discovery or other questions upon review of the seized  
17 evidence and evaluation of related lab reports. Given the voluminous discovery, defense counsel  
18 believes the case is sufficiently complex that it is unreasonable to expect adequate preparation for  
19 pretrial proceedings or the trial itself within the current trial schedule, as set forth in 18 U.S.C.  
20 § 3161(h)(7)(B)(ii).

21 9. The impact of the COVID pandemic has also delayed and complicated defense  
22 counsel's preparations for trial over the course of the case thus far, including defense investigation  
23 tasks such as interviewing potential witnesses.

1           10. Under the circumstances, additional time is necessary for defense counsel to review  
2 the discovery fully and adequately with their clients, view the evidence seized, consult with experts  
3 as appropriate, consider possible defenses and pretrial motions, and gather evidence material to the  
4 defense, so that their clients can make informed and intelligent decisions about how to proceed and  
5 to effectively prepare for trial. Despite the exercise of due diligence, this cannot be reasonably  
6 accomplished under the current case schedule given the complexity of the case. *See* 18 U.S.C. §  
7 3161(h)(7)(B) (ii) & (iv).

8           11. Further, as the Court has previously noted, “the pandemic has made it difficult for  
9 the Court to obtain an adequate spectrum of jurors to represent a fair cross section of the community,  
10 and public health guidance has impacted the ability of jurors, witnesses, counsel, and Court staff to  
11 be present in the courtroom.” *See* Dkt. No. 101 (citing General Orders 01-20, 02-20, 07-20, 08-20,  
12 11-20, 13-20, 15-20, and 18-20). While jury trials have recently resumed due to increased access  
13 to vaccination, *see* General Order 10-21, the prevalence of the “Delta variant” suggests the current  
14 trial date of November 1, 2021 may be impacted if current circumstances change. This uncertainty,  
15 in combination with the other reasons cited above, makes proceeding with the current trial date  
16 likely to result in a miscarriage of justice. *See* 18 U.S.C. § 3161(h)(7)(B)(i).

17           12. Both defendants agree with the requested continuance to facilitate their lawyers’  
18 preparation for trial.

19           13. Under the particular circumstances of this case, defense counsel and the government  
20 agree the ends of justice will best be served by a continuance, and the ends of justice outweigh the  
21 best interests of the public and the defendants in any speedier trial, as set forth in 18 U.S.C.  
22 § 3161(h)(7)(A). Findings to this effect are set forth in the attached proposed order.  
23

6 DATED this 12th day of August, 2021.

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